

111TH CONGRESS  
1ST SESSION

# H. R. 3678

To amend title 49, United States Code, to modify the authority of the Assistant Secretary of Homeland Security (Transportation Security Administration) to issue regulations and security directives using emergency procedures.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 30, 2009

Mr. MICA (for himself, Mr. PETRI, Mr. BOYD, Mr. EHLERS, and Mr. GRAVES) introduced the following bill; which was referred to the Committee on Homeland Security

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## A BILL

To amend title 49, United States Code, to modify the authority of the Assistant Secretary of Homeland Security (Transportation Security Administration) to issue regulations and security directives using emergency procedures.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. ISSUANCE OF REGULATIONS AND SECURITY DI-**  
4       **RECTIVES USING EMERGENCY PROCEDURES.**

5       (a) IN GENERAL.—Section 114(l) of title 49, United  
6       States Code, is amended—

7               (1) in paragraph (2)—

1 (A) in subparagraph (A) by striking “im-  
2 mediately in order to protect transportation se-  
3 curity” and inserting “in order to respond to an  
4 imminent threat of finite duration”; and

5 (B) in subparagraph (B) by inserting “to  
6 determine if the regulation or security directive  
7 is needed to respond to an imminent threat of  
8 finite duration” before the period at the end of  
9 the first sentence;

10 (2) by striking paragraph (3) and inserting the  
11 following:

12 “(3) FACTORS TO CONSIDER.—

13 “(A) IN GENERAL.—In determining wheth-  
14 er to issue, rescind, or revise a regulation or se-  
15 curity directive under this subsection, the  
16 Under Secretary shall consider, as factors in  
17 the final determination—

18 “(i) whether the costs of the regula-  
19 tion or security directive are excessive in  
20 relation to the enhancement of security the  
21 regulation or security directive will provide;

22 “(ii) whether the regulation or secu-  
23 rity directive will remain effective for more  
24 than a 90-day period; and

1 “(iii) whether the regulation or secu-  
2 rity directive will require revision in the  
3 subsequent 90-day period.

4 “(B) AUTHORITY TO WAIVE CERTAIN RE-  
5 QUIREMENTS.—For purposes of subparagraph  
6 (A)(i), the Under Secretary may waive require-  
7 ments for an analysis that estimates the num-  
8 ber of lives that will be saved by the regulation  
9 or security directive and the monetary value of  
10 such lives if the Under Secretary determines  
11 that it is not feasible to make such an esti-  
12 mate.”; and

13 (3) by adding at the end the following:

14 “(5) RULEMAKING REQUIRED.—Any regulation  
15 or security directive issued under paragraph (2) that  
16 remains effective, with or without revision, for a pe-  
17 riod of more than 180 days shall be subject to a  
18 rulemaking pursuant to subchapter II of chapter 5  
19 of title 5.”.

20 (b) APPLICABILITY.—The amendment made by sub-  
21 section (a)(3) shall apply to a regulation issued under sec-  
22 tion 114(l)(2) of title 49, United States Code, before, on,  
23 or after the date of enactment of this Act.

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